

ONTARIO ATTORNEY GENERAL LAW LIBRARY



00069913

Ministry of the Attorney General

MINISTRY OF THE  
ATTORNEY GENERAL  
LAW LIBRARY

# Office of the Children's Lawyer 2014-2015 Annual Update

Office of the Children's Lawyer,  
Victims and Vulnerable Persons Division

Ministry of the Attorney General

July 2015

[Visit our website](#)





Digitized by the Internet Archive  
in 2017 with funding from  
Ontario Council of University Libraries

[https://archive.org/details/mag\\_00069913](https://archive.org/details/mag_00069913)

Ministry of the Attorney General

# Office of the Children's Lawyer 2014-2015 Annual Update

Office of the Children's Lawyer,  
Victims and Vulnerable Persons Division

Ministry of the Attorney General

July 2015

[Visit our website](#)





# Table of Contents

---

Chapter 1 - Message from the Children's Lawyer for Ontario - Lucy McSweeney

Chapter 2 – Who We Are

The Office of the Children's Lawyer

Our Vision, Mission and Values

Our Vision

Our Mission

Our Values

Our History

Areas of Law

How Big is the Office of the Children's Lawyer?

The Office of the Children's Lawyer's People

How Many Children do We Serve?

Our Case Budget and Numbers

Chapter 3 – What We Do

Personal Rights - Child Protection

Personal Rights - Private Disputes

Custody & Access: Legal Representation

Custody & Access: Clinical Services

Custody/Access: Intake

What OCL Does in Custody & Access Cases

Property Rights - Estates

Property Rights - Civil Litigation

Property Rights - Minor's Funds Department



## Chapter 4 – Feedback

### Look Us Up



## Chapter 1 - Message from the Children's Lawyer for Ontario - Lucy McSweeney

---

It is my pleasure to present to you the Office of the Children's Lawyer Annual Update for the fiscal year of April 1<sup>st</sup>, 2014 to March 31<sup>st</sup>, 2015.

Over the past few years, we have seen an increase in the complexity and volume of files we receive in our Property Rights and Personal Rights areas. In order to continue to provide excellent and timely service in an environment of limited budgetary resources, we have streamlined some of our business processes and consulted with stakeholders to assist us in making best use of the financial and human resources we do have.

We are now in the final phases of a multi-year build of a new case management program which is helping us to track, transmit and supervise files across the province from our Toronto office. In this way, technology is helping us ensure that our staff's time is spent on our most value-added work.

Our legal and clinical staff continue to support legal system improvements through participation in Bench and Bar committees, presenting at legal and clinical conferences, teaching at schools of social work and law schools, and through their design and delivery of professional development programs for our fee-for-service panel members.

The Office continues to tackle change head-on, with the goal of improving services and their delivery to benefit the young people who depend on us.

I want to express my gratitude to the hundreds of individuals connected to the Office of the Children's Lawyer who support our youngest and most vulnerable members of society, our children. With their experience, knowledge and commitment, we are improving lives.

Overall, our services make a positive difference in the lives of over 20,000 young people each year.



We have added more information, including "Frequently Asked Questions", to our website, and I invite you to visit our [website](#) for more information. Thank you for your interest in the Office of the Children's Lawyer.

Lucy McSweeney  
Children's Lawyer for Ontario

## Chapter 2 – Who We Are

---

### The Office of the Children's Lawyer

The Office of the Children's Lawyer ("OCL") is an independent law office operating within Ontario's Ministry of the Attorney General. The Children's Lawyer is appointed by Order-in-Council.

The Office of the Children's Lawyer investigates, advocates, protects and represents the personal and property rights and obligations of children in proceedings before the courts and tribunals of Ontario.

### Our Vision, Mission and Values

#### Our Vision

Children and youth will obtain the best possible outcomes from legal disputes involving their personal and property rights.

#### Our Mission

We work with and on behalf of children and youth to assert and protect their rights in custody and access, child protection, estates and civil litigation matters. We accomplish this by providing excellent, timely, helpful services.

#### Our Values

- **Child-Focused**

- We put the child's needs and interests first.
- We consider how each action or step we take affects the child.

- **Respect**

- We treat others in a way that upholds each person's dignity and inherent worth.
- We ensure children, youth and employees feel acknowledged, heard and appreciated.

- **Teamwork**

- We work collaboratively towards common goals.
- We work through our differences so that we remain focused on helping children.
- We communicate openly to resolve conflicts.

- **Diversity**

- We work to foster an inclusive environment.
- We provide services that meet the needs of a diverse population.
- We accept and appreciate differences.

- **Commitment**

- We remain dedicated to the OCL vision, mission and values.
- We commit to continuously improve our services.

- **Integrity**

- We uphold the confidentiality and privilege of clients.
- We use public resources responsibly.
- We are trustworthy, honest and transparent in our work.

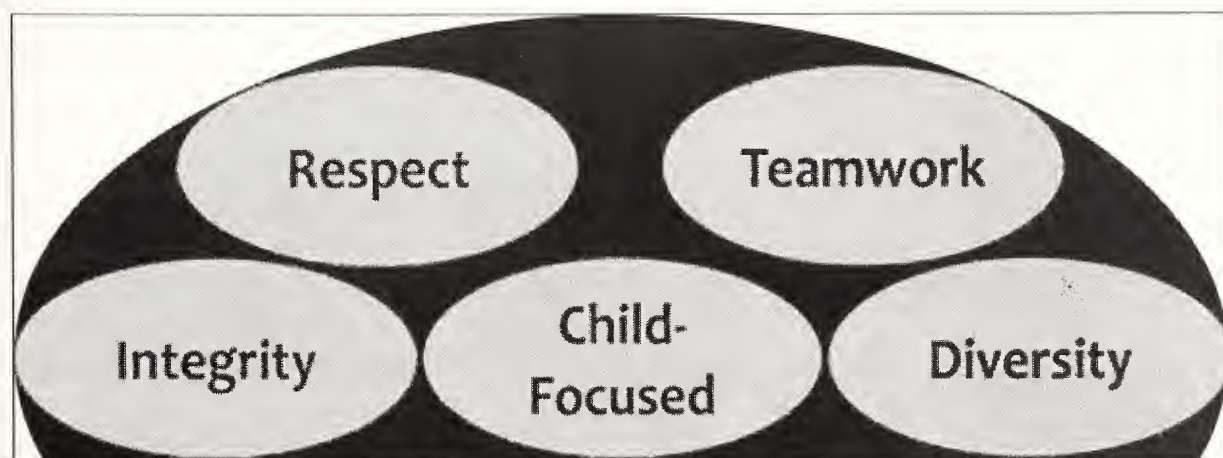




Figure 1: Image listing the Office of the Children's Lawyer's values.

## Our History

The origins of our office can be traced back as early as 1826 when the Lord Chancellor of Upper Canada appointed a leading member of the legal Bar to be "guardian ad litem" of children to represent their interests in court.

The Office of the Official Guardian was formally recognized in 1881.

The Official Guardian changed its name in 1995 to the Office of the Children's Lawyer.

## Areas of Law

The Office of the Children's Lawyer represents and assists children and youth primarily in the following areas:

1. child protection proceedings
2. custody and access disputes
3. estates and civil litigation

## How Big is the Office of the Children's Lawyer?

The Office of the Children's Lawyer's People

The Office of the Children's Lawyer currently has 80 In-house staff members:

- 12 are In-house Personal Rights Lawyers



- 11 are In-house Property Rights Lawyers
- 10 are In-house Clinicians (social workers)
- 46 are support staff including intake, accounting and law clerks, as well as legal assistants, etc.

We also have across Ontario:

- 500+ fee-for-service ("panel") Lawyers
- 250+ fee-for-service ("panel") Clinicians (mostly social workers)

### How Many Children do We Serve?

We serve over 20,000 children at a time.

### Our Case Budget and Numbers

In 2014-2015 our budget was \$40.9 million and we had a total of 9,907 open files:

- 47 % (4,655) were Child Protection cases
- 25 % (2,472) were Access/Custody cases
- 20% (1,955) were Property Rights cases
- 8% (825) were Minor's Funds cases

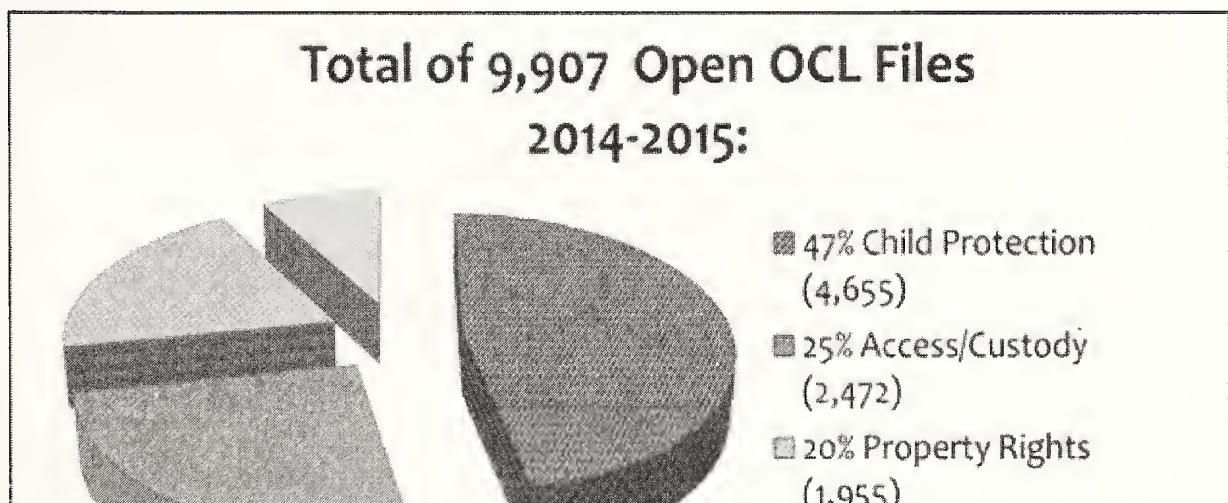




Figure 2: The percentage and number of cases open in 2014-2015

# Chapter 3 – What We Do

The Office of the Children’s Lawyer represents children primarily in the following areas:

- child protection proceedings
- custody and access disputes
- estates and civil litigation

## Personal Rights - Child Protection

The Office of the Children’s Lawyer only becomes involved and assigns a lawyer in Child Protection cases when the Court has made an order under section 38 of the *Child and Family Services Act* (“CFSA”).

The Office has no discretion to refuse these cases, however we may ask to have the section 38 order terminated at a later stage.

## Personal Rights - Private Disputes

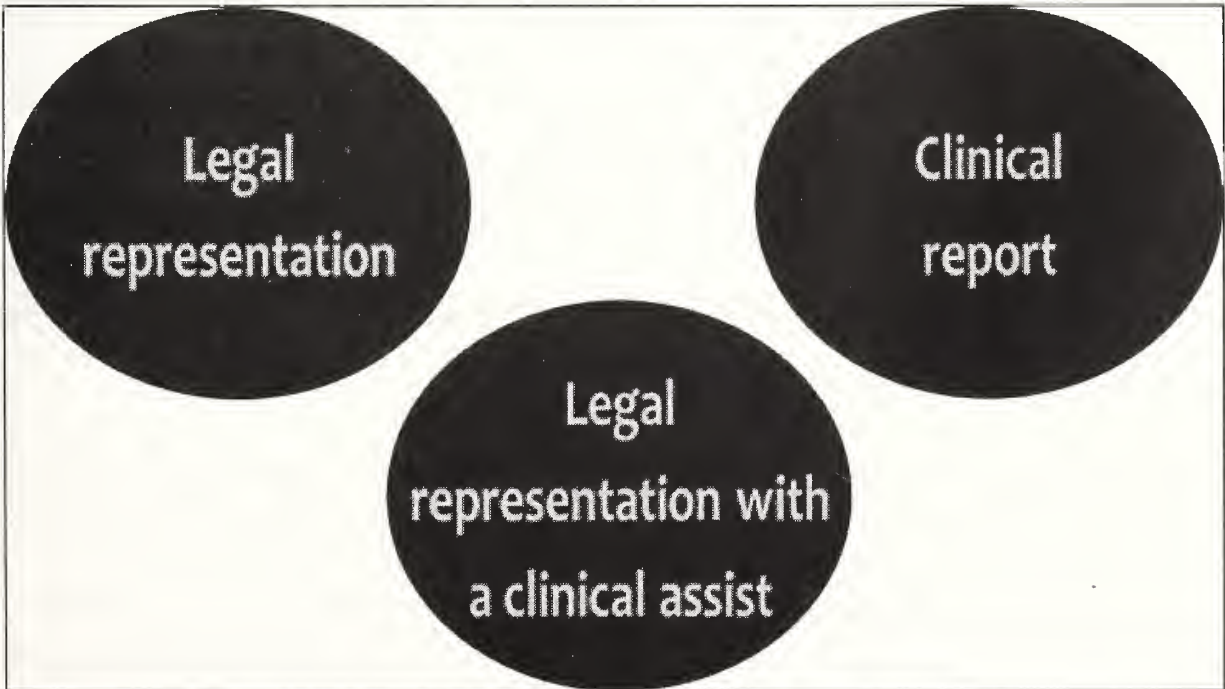


Figure 3: The various (private dispute) services



## Custody & Access: Legal Representation

Pursuant to section 89 of the *Courts of Justice Act* ("CJA") we may, when the court asks us, provide legal representation for children involved in a custody and access dispute.

The Office of the Children's Lawyer has the discretion to determine whether to accept the case, and to decide what type of service to provide.

## Custody & Access: Clinical Services

Under section 112 of the CJA, the OCL may ask a Clinician to conduct an investigation and prepare a report for the court.

Clinicians may also assist our lawyers in custody and access proceedings.

## Custody/Access: Intake

Currently, the OCL accepts approximately 65% of the referrals that are received from the court. Most of the cases we accept are high conflict cases and involve multiple family issues, such as:

1. mental health challenges
2. allegations of domestic violence/sexual abuse
3. significant substance abuse
4. young parents with few resources who are experiencing parenting challenges
5. mobility
6. alienation
7. children with special needs
8. many children under the age of six

## What Office of the Children's Lawyer Does in Custody and Access Cases

We shift the focus from the conflict between the parents (and other caregivers) to the children's needs and interests.

## Property Rights - Estates

The law requires that the Children's Lawyer be served with a Notice of Application for a Certificate of Appointment of Estate Trustee if there is a minor (a person under 18 years of age) who has an interest in an estate. The Office of the Children's Lawyer monitors the administration of these estates.

The Children's Lawyer also represents minors in estate litigation proceedings as authorized by law.

The types of claims may include:

1. applications by trustees for directions
2. applications for dependent's relief
3. removal of trustees
4. will challenges/interpretations
5. sale of minor's property
6. guardianship of minor's property

## Property Rights - Civil Litigation

The Children's Lawyer acts for minors in civil litigation (court cases) in the following ways:

1. acting as litigation guardian for a minor plaintiff or defendant where there is no other person willing and able to act
2. protecting a minor's interest in a proceeding where there is a litigation guardian other than the Children's Lawyer

3. reviewing minors' settlements and making recommendations to the court when directed by the court
4. representing a minor's interest in ensuring that settlement funds are appropriately managed on behalf of a minor

## Property Rights - Minor's Funds Department

If the Accountant for the Superior Court of Justice (Ontario) holds funds belonging to a minor and the minor's parent or caregiver requires funds for the direct benefit of the minor, the parent or caregiver may apply in writing to the Children's Lawyer's Minors' Funds Department for payment out of Court in accordance with court rules.

Counsel for the Children's Lawyer attends at the Superior Court approximately every 4 to 6 weeks. A judge decides each request.

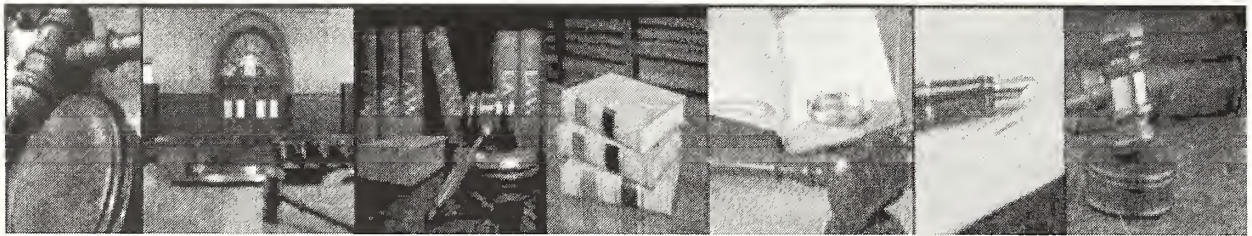


Figure 4: Images of courts, gavels and legal documents and books



## Chapter 4 – Feedback

---

"My difference maker is my OCL lawyer. She is my difference maker because she makes me feel safe about visits with my mom. She is also my difference maker because if I feel uncomfortable about something I can tell her."

*Office of the Children's Lawyer Child Client*

"Demand for the Office's legal and clinical investigation services is significant. As well, the Office is unique in that no other jurisdiction in Canada provides children with the same range of centralized legal services. Overall, the legal and investigative work done by the Office is valued by the courts, children, and other stakeholders."

*2011 Annual Report, Office of the Auditor General*

"The OCL has fulfilled, in a very helpful and independent way, a public responsibility in protecting the rights of minors and contingent interests."

*2012 Decision of an Ontario Superior Court of Justice Estate Law Case*

"I would be remiss if I did not express my appreciation to [OCL's lawyer and clinician] for the assistance they have given the Court in this difficult matter. Their conduct in this case exemplifies the value the OCL brings to this process, and highlights the need for the OCL's involvement in high conflict cases."

*2014 Decision of an Ontario Superior Court of Justice Family Law Case*



Figure 5: Images of children smiling

## Look Us Up

---

For more information, [visit our website.](#)

**Contact us at:**

Office of the Children's Lawyer  
c/o MGCS Mail Delivery Services  
2B-88 Macdonald Block  
77 Wellesley Street West  
Toronto, Ontario M7A 1N3

**Phone:** 416-314-8000



Figure 6: Images of children using phones and computers

# The Annual Jury Selection Process

- **You are here:**
- [Home](#)
- [Courts](#)
- [Jury Duty Information](#)

Text: [Larger](#) | [Smaller](#)

Jury selection in Ontario is a year-round process. These are the steps.

## Jury Roll Process

May:

### Required number of jurors is calculated

Jurors can be required for criminal trials, civil trials and Coroner's inquests. Each of the 50 Superior Court of Justice locations in Ontario calculates the number of jurors they will need for the upcoming year. They consider several factors, such as the number of jurors required in previous years and the anticipated number of trials. They send their estimates to the Provincial Jury Centre.

September – November:

### Questionnaires sent to potential jurors

📺 Video clip: ["Questionnaires are the first step"](#)

To meet the estimated demand for jurors, [juror questionnaires](#) are mailed to people who are selected randomly from the most recent municipal enumeration (voters') lists. For people living in a First Nation community, other lists, like Band lists, are used.

The questionnaire mailing includes a letter from the Attorney General, an instruction sheet and prepaid reply envelope.

People completing the questionnaire are invited to call one of two toll-free lines: one line provides recorded instructions on how to complete the questionnaire and one line reaches representatives at the Provincial Jury Centre who can answer questions about the questionnaire or the summons.

People who receive a questionnaire complete and return it in the pre-paid envelope. The completed questionnaires are used to determine whether a person is eligible for jury duty.



December:

## **Jury roll created and certified**

Questionnaires are sorted for eligibility for jury duty. Jurors need to be Canadian citizens and at least 18 years old. Anyone who has attended court for jury duty in the previous three years cannot serve again. People in certain professions like firefighters, police officers and doctors as well as people convicted of a broad range of criminal offences are excluded from serving.

People who are eligible to serve are put on a list of potential jurors called the jury roll. The jury roll includes the name, address and occupation of the potential jurors. Once the jury roll is created, it is certified as accurate and complete. Jury panels are randomly selected from this list.

## **Jury Panel Process**

January – December of the following year  
(Year-round):

### **Jury panels are established**

▶ Video clip: "Being summoned"

Each court estimates the number of jurors they need for upcoming trials and sends the request to the Provincial Jury Centre. The Provincial Jury Centre uses a computer program to randomly select jury panels from the jury roll.

Criminal record checks are conducted through the Canadian Police Information Centre (CPIC) on individuals randomly selected from the jury panel list. Those with a criminal record are removed from the list.

A jury panel is typically a group of 50 to 300 people who are summoned to a specific courthouse.

The summons indicates the date and court location to attend for jury duty. The court date for the jury panel members is at least 21 days after the date their summons is mailed.

About 180,000 people in Ontario are summoned for jury duty each year.

## **Jury Selection**

January – December of the following year  
(Year-round):



## **Juries selected**

Jury panel members gather at the court location and on the date noted on their summons. The Court Services Officer divides them into groups for each trial that day. Panel members are then called into the courtroom so that all the parties can see the prospective jurors. Prospective jurors who are not selected may be assigned to another panel on the same day or asked to return the following day.

Each panel member has an assigned number which appears on a ballot card. Inside the courtroom, court staff randomly selects ballot cards and calls out the number of the panel member. In many courtrooms, these ballot cards are chosen lottery-style from a drum.

Panel members are given the opportunity to let the judge know of any difficulties they may experience in attending court on the date of their summons because of employment, schooling or a scheduled vacation. The judge may defer the panel member's service to a later date, excuse the panel member or require them to serve on the jury. Whether selected for jury duty or excused, panel members are ineligible for jury duty for the next three years.

Note: Deferral and excusal requests may also be made to the local court office in advance of the summons date. These requests are considered by a judge.

## **Criminal Trials**

Twelve people sit on a jury in a criminal trial.

In a criminal trial, the prospective juror goes to the front of the courtroom and faces the accused. At that point, the person is either accepted by each of the lawyers or rejected by one of them.

The Crown attorney and defence counsel can reject a limited number of prospective jurors without giving a reason. That is known as a peremptory challenge.

In some cases, counsel pose a few pre-determined questions to each prospective juror to ensure that they will be able to decide the case free of prejudice or bias such as:

Would your ability to judge the evidence in this case without bias be affected by anything you have heard or read about this case in the media?

This is called a challenge for cause.

Criminal juries are occasionally used to review applications by offenders serving jail sentences who are asking to be eligible for parole sooner.

 Video Clip: ["How the Crown and defense select jurors"](https://www.attorneygeneral.jus.gov.on.ca/english/courts/jury/jury_selection_process...)

## **Civil Trials**

Six people sit on a jury in a civil trial.

In a civil trial, the names of six prospective jurors are randomly drawn and those six people are seated in the jury box. At that point, counsel for the plaintiff and counsel for the defendant are asked if they wish to challenge any of the jurors. If a juror is challenged, he or she leaves the jury box and is replaced by another juror, called randomly from the panel.

The judge decides if the panel members who have been challenged return to the general panel or are dismissed from jury duty obligations.

### **Coroner's Inquests**

Five people sit on a jury in a Coroner's inquest.

A Coroner's inquest is a public hearing, presided over by a coroner. A coroner is a physician who is trained to investigate suspicious and unexpected deaths. Coroner's inquest findings are used to generate recommendations to help improve public safety and prevent deaths in similar circumstances.

## **Trial**

January – December of the following year  
(Year-round):

▶ Video clip: ["Role of the judge"](#)

▶ Video clip: ["Role of the Crown attorney and the defence counsel"](#)

If selected to serve on a jury, jurors go to the court location on the date and time specified by the judge. Most trials begin on the same day as the jury is selected and last between a couple of days and a couple of weeks.

---

## **Serving as a Juror**

It is the civic duty of all Canadian citizens 18 years of age and older to serve as a juror if selected. The experience may be different than you think. Find out more.

▶ Video clip: ["Why serve as a juror"](#)

▶ Video clip: ["Serving as a juror"](#)

▶ Video: ["Jury Duty and You"](#) When people arrive at a courthouse to report for jury duty, they are shown a video outlining the role of the juror and what to expect if they are selected as a juror. This is that video.

- [Contact Us](#)







